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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BENITO AGUILAR,
Plaintiff,
vs.
KIM HOLLAND, et al.,
Defendants.

1:16-cv-00114-LJO-GSA-PC
FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT THIS CASE BE
DISMISSED, WITH PREJUDICE, FOR
FAILURE TO STATE A CLAIM UPON
WHICH RELIEF MAY BE GRANTED
(ECF No. 1.)
OBJECTIONS, IF ANY, DUE WITHIN 30
DAYS

I. BACKGROUND

Benito Aguilar (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. On January 25, 2016, Plaintiff filed the Complaint commencing this action. (ECF No. 1.)

On November 14, 2016, the Court dismissed Plaintiff’s Complaint for failure to comply with the Federal Rules of Civil Procedure, with leave to file an Amended Complaint within thirty days. (ECF No. 12.) The thirty-day deadline has passed, and Plaintiff has not complied with or otherwise responded to the Court’s order. As a result, there is no pleading on file which sets forth any claims upon which relief may be granted.

Accordingly, IT IS HEREBY RECOMMENDED that pursuant to 28 U.S.C. § 1915A and 28 U.S.C. § 1915(e), this action be DISMISSED, with prejudice, based on Plaintiff’s failure

1 to state a claim upon which relief may be granted under section 1983, and that this dismissal be
2 subject to the “three-strikes” provision set forth in 28 U.S.C. § 1915(g). Silva v. Vittorio, 658
3 F.3d 1090, 1098 (9th Cir. 2011).

4 These findings and recommendations are submitted to the United States District Judge
5 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within thirty
6 days after being served with these findings and recommendations, Plaintiff may file written
7 objections with the court. Such a document should be captioned "Objections to Magistrate
8 Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections
9 within the specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler,
10 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir.
11 1991)).

12
13 IT IS SO ORDERED.

14 Dated: December 29, 2016

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE